

there regarding the scale and nature of the federal shark fishery in California, we agree with your conclusion that California's Shark Fin Prohibition law will have minimal impact on federally licensed and permitted shark harvesters in California, and does not unlawfully burden their ability to achieve the benefits from federal fisheries provided under the Magnuson-Stevens Fishery Conservation and Management Act, as amended. Accordingly, it is our position, based on the information that you have provided, that California's Shark Fin Prohibition law is not preempted by the Magnuson-Stevens Act, as amended.

We agree that this has been a very productive process. Our consultations have addressed fully our initial concern, as expressed in the amicus brief of the United States *Chinatown Neighborhood Association et al.*, v. *Brown*, et al., Ninth Circuit Case No. 13-15188, that California's Shark Fin Prohibition might conflict with or obstruct the Magnuson-Stevens Act, as amended. In light of our present conclusion that California law does not conflict with or obstruct the purposes, goals, or methods of the Magnuson-Stevens Act, we do not intend to seek authorization from the Department of Justice to further participate in the case of *Chinatown Neighborhood Association, et al. v. Brown*, et al., No. CV 12 3759 WHO (N.D. Cal.). We request that you contact us if there are significant changes to the facts described in your letter as this could necessitate further consultation.

We appreciate your willingness to work with us on this important matter and we hope this letter addresses your concerns.

Sincerely,

EILEEN SOBECK,
Assistant Administrator for Fisheries.

STATE OF CALIFORNIA—NATURAL
RESOURCES AGENCY, DEPARTMENT
OF FISH AND WILDLIFE,

Sacramento, CA, February 3, 2014.

EILEEN SOBECK,
Assistant Administrator for Fisheries, National
Oceanic and Atmospheric Administration,
Silver Spring, MD.

DEAR MS. SOBECK: We write to memorialize a series of conversations between our respective offices and legal counsel beginning on September 6, 2013, regarding the relationship between California's Shark Fin Prohibition, Cal. Fish & Game Code §§2021 & 2021.5, and the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. §§1801-1884, as amended by the Shark Finning Prohibition Act of 2000, Pub. L. No. 106-557, 114 Stat. 2772 (2000), and the Shark Conservation Act of 2010, Pub. L. No. 111-348, 124 Stat. 3668 (2010). We appreciate the opportunity to consult with you and believe that this process has been highly productive. This process was initiated after the United States filed an amicus brief in *Chinatown Neighborhood Association et al.*, v. *Brown*, et al., Ninth Circuit Case No. 13-15188, and in that filing the United States observed that California's Shark Fin Prohibition may conflict with or obstruct federal law. However, in light of our discussions and the full information and analysis we have provided regarding the scope and effect of California's law, we now agree that California law and federal law are consistent and that there is no basis for finding California's Shark Fin Prohibition to be preempted by the Magnuson-Stevens Act, as amended.

The Magnuson-Stevens Act governs the management of federal fisheries, including shark fisheries. As we have discussed, the Shark Fin Prohibition and the Magnuson-Stevens Act, as amended, share a goal of promoting conservation and ending the practice of shark finning. To this end, the California

Shark Fin Prohibition proscribes the possession, sale, trade, and distribution of detached shark fins in California. See Cal. Fish & Game Code §§2021(a)&(b). Of particular significance here, and unlike federal law, the California Shark Fin Prohibition does not regulate the act of finning or the taking and landing of sharks within the Exclusive Economic Zone (EEZ). Moreover, under California law, a federally-licensed fisher may land a shark in California with the fins attached, as required by the Shark Conservation Act of 2010. See id. §2021(a) (defining "shark fin" as the "raw, dried, or otherwise processed detached fin, or the raw, dried, or otherwise processed detached tail, of an elasmobranch.")

With respect to your concern regarding the ability of fishers to possess fins (from sharks caught in the EEZ), pursuant to California Fish and Game Code sections 2021(d) and 2021.5(a)(1), properly-licensed fishers are exempt from the ban on possession. Because all fishers, including those who operate in federal waters pursuant to a federal license, are required to hold state licenses in order to land sharks in California, see id. §§7850, 7881, this exemption applies equally to federal and state fishers.

Finally, California's Shark Fin Prohibition does not interfere with the management of federal fisheries. As you are aware, and as set forth in our reply to your amicus brief, we reject the notion that simply because a state ban might have an effect on fishing within federal waters and consequently on the attainment of "optimum yield," that it conflicts with and/or is preempted by the Magnuson-Stevens Act. While we may continue to disagree on this point, as a practical matter, the California Shark Fin Prohibition has no meaningful effect on fishing behavior or "optimum yield." Relatively few sharks are landed in California. The California-based drift gillnet fleet and the Hawaii-based pelagic longline fleet account for the majority of shark landings in California from federally-managed fisheries. Both of these fleets target swordfish and thus fishing behavior in these fleets is driven primarily by swordfish, and not by sharks. The relative importance of swordfish and sharks is apparent in both landings and revenue. For example, in 2012, according to PacFIN data, shark landings in California (from both federal and state waters) totaled 107.5 metric tons, and represented \$189,910 in revenue. By comparison, 402.5 metric tons of swordfish were landed in California in 2012, with an ex-vessel value of \$2,092,050. With respect to the relatively small number of sharks that are landed in California, state law permits the sale of all of the parts of a shark caught in federal waters and landed in California, excluding its detached fin and tail. Accordingly, we do not expect an appreciable impact on income to federally-licensed shark harvesters in California as a result of California's law.

For these reasons, we believe that California's Shark Fin Prohibition is consistent with and does not conflict with the Magnuson-Stevens Act, as amended by the Shark Finning Prohibition Act of 2000, and the Shark Conservation Act of 2010.

Please feel free to contact Thomas Gibson, General Counsel, if you have further questions or concerns.

Sincerely,

CHARLTON H. BONHAM,
Director.

PERSONAL EXPLANATION

HON. ADAM SMITH

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 5, 2014

Mr. SMITH of Washington. Mr. Speaker, on Monday, January 27, 2014, I was unable to be present for recorded votes. Had I been present, I would have voted: "yes" on rollcall vote No. 24 (on the motion to suspend the rules and pass H.R. 2166, as amended), and "yes" on rollcall vote No. 25 (on the motion to suspend the rules and pass H.R. 3008, as amended).

RECOGNIZING KATIE PORTA

HON. ALAN GRAYSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 5, 2014

Mr. GRAYSON. Mr. Speaker, I rise today to recognize Katie Porta. Katie has devoted her life to serving the Central Florida community. She is an amazing woman and a source of inspiration to us all.

Katie was born in Indiana as Mary Katherine Hartman. She spent much of her childhood shadowing her mom, a nurse who conducted in-home hearing tests for people with disabilities. The experience of visiting rural homes and serving her community remained with Katie into adulthood and drove her apply to Purdue University, where she eventually earned a degree in speech and hearing. Following graduation, Katie became a speech and hearing therapist initially serving the public school system, and later working with military families stationed in Japan through the Department of Defense. Katie's service was rewarded with a new position in Germany, where she supervised an initiative that assisted servicemen as they transitioned from the military back into society.

After her time in Germany, Katie accepted a job working with mentally disabled children at the Sunland Center in Tallahassee. She was shocked by the hospital conditions and immediately resolved herself to becoming a powerful advocate for the disabled. One of Katie's first opportunities to serve as that advocate came in form of legislation: a bill of rights for the developmentally disabled. Katie fought to secure these rights—rights that are now enshrined in Florida law. As Katie says, the developmentally disabled "have the same needs you and I have . . . People don't want to be treated down; they want to be treated up."

Katie later took over Life Concepts, Inc. a non-profit organization that operated group homes, sheltered apartments and vocational training for adults with developmental disabilities (who had previously lived in large state institutions). She spent time visiting state institutions to personally meet the individuals who would be discharged into their assigned community homes. Katie said she wanted to make sure that the settings Life Concepts provided would meet their individual needs. The non-profit had few resources, so Katie worked hard to develop relationships with Florida legislators and stakeholders to ensure that her clients could count on quality care. Her quick wit, persistence, and passion for her clients earned her a reputation for getting things done.